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EXAMINER NGUYEN, HIEP VAN				
ART UNIT 3686		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspatents@senniger.com

# Office Action Summary

**Application No.**

10/729,082

**Applicant(s)**

MARCHOSKY, J. ALEXANDER

**Examiner**

HIEP NGUYEN

**Art Unit**

3686

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 February 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Status***

1. This Supplemental non-Final Rejection is replaced for the previous office action issued on 11/10/2010 for additional reference.
2. Claims 1-37 have been examined.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 8-11, 15-27, 29-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavin et al. (US 5,772,585 hereinafter Lavin) in view of Soll et al. (US 7,593,952 hereinafter Soll) and further in view of Hacker (US. 6,988,075)
5. With respect to Claim 1, Lavin. teaches a medical records system comprising:  
a central computer connected to a global computer network having a medical records database thereon ('585; Col. 4, lines 32-42), said database containing individual medical records of a plurality of patients, each of said records corresponding to one patient of said plurality of patients ('585; Figs. 22-24; Col. 7, lines 15-25);

a health care computer connected to the global network remote from the central computer having a health care professional interface program adapted to permit an authorized health care professional to access the portion of the individual medical records for which the health care professional has authorization and to input additional patient medical history and biographical information into the corresponding individual medical record of the database ('585; Col. 5, lines 31-56; col./Line 8/60-9/8; lines 58-60; Col. /line 10/59-11/29; Col. 15, lines 1-58.)

Lavin does not disclose explicitly a patient computer connected to the global network remote from the central computer having a patient interface program adapted to permit a patient to input medical history and biographical information into the medical records database and to authorize a health care professional to access at least a portion of the individual medical records of the respective patient.

However, this feature is well known in the art as evidenced by Soll ('952). Soll discloses a patient computer connected to the global network remote from the central computer having a patient interface program adapted to permit a patient to input medical history and biographical information into the medical records database ('952; Fig. 3: capture medical history; Col. 7, lines 14-33; permit direct entry of input data by a patient; Col./line 12/55-13/19)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate an enhanced medical treatment system which seeks input from the patient as taught by Soll ('952; Abstract) in the system of

Lavin for managing patient medical records ('585; Abstract) in order for the patient to manage patient records and the combination would have yielded predictable results.

However, the combined art Lavin/Soll does not disclose a health care professional interface program adapted to permit an authorized health care professional to access the portion of the individual medical records for which the health care professional has authorization and to input additional patient medical history and biographical information into the corresponding individual medical record of the database, and to authorize a health care professional to access at least a portion of the individual medical records of the respective patient.

However, Hacker discloses to permit an authorized health care professional to access the portion of the individual medical records for which the health care professional has authorization and to input additional patient medical history and biographical information into the corresponding individual medical record of the database, and to authorize a health care professional to access at least a portion of the individual medical records of the respective patient ('075; Abstract).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the user authorization with multi-level access medical information as taught by Hacker ('075; Abstract) in the system of Lavin/Sol for allowing healthcare professionals to access update patient-selected portion of patient's medical records and the combination would have yielded predictable results.

Claim 20 is rejected as the same reason with claim 1.

6. With respect to Claim 2, the combined art teaches a records system as set forth in claim 1. Lavin et al. discloses wherein the health care professional interface program is adapted to permit an authorized health care professional to input information into the corresponding individual medical record of the database, said information being selected from a group consisting of social history, clinical findings, laboratory test results, imaging results, physiologic findings, biochemical findings, anatomic findings, psychological findings, psychiatric findings, pathological findings, genetic findings and phenotypic findings ('585; Col. 9, lines 8-18).

Claim 21 is rejected as the same reason with Claim 2.

7. With respect to Claim 3, the combined art teaches a records system as set forth in claim 1. Lavin et al. discloses wherein the health care professional interface program is adapted to permit an authorized health care professional to input information into the corresponding individual medical record of the database, said information being selected from a group consisting of diagnosis, conclusions, recommendations, treatments, procedures and outcomes ('585; Col. /line 10/59-11/29.)

8. With respect to Claim 4, the combined art teaches a records system as set forth in claim 1. Lavin et al. discloses wherein the health care computer includes a health

care reference database containing information selected from a group consisting of diagnostic and protocol data, toxicology data, allergy data, immunological data, developmental data, endocrine data, cardiovascular data, gastrointestinal data, respiratory data, renal data, reproductive data, musculoskeletal data, rheumatologic data, dermatologic data, otorhynolaryngologic data, ophthalmologic data, gynecologic data, urologic data, neurological data, psychological data, psychiatric data, hepatologic data, homological data, pediatric data, rehabilitative data, genetic data and phenotypic data ('585; Col. 13, lines 29-59: list of IC 9 and various procedures CPT 95).

9. With respect to Claim 9, the combined art teaches a records system as set forth in claim 1. Lavin et al. discloses wherein the health care computer includes a security program adapted to selectively limit an extent and type of information stored in the individual medical records based on a degree of confidentiality assigned by a health care provider to the medical record for limiting access to the information by the health care professionals ('585; Col. 5, lines 36-47).

10. With respect to Claim 10, the combined art teaches a records system as set forth in claim 9. Lavin et al. discloses wherein the security program identifies and logs each attempt to access records in the medical records database ('585; Col. 5, lines 36-47).

Claim 25 is rejected as the same reason with Claim 10.

11. With respect to Claim 11, the combined art teaches a records system as set forth in claim 9. Lavin et al. discloses wherein the security program identifies and logs the patients and the health care professionals who enter and store new information in the medical records database ('585; col./line 8/59-9/18).

Claim 24 is rejected as the same reason with Claim 11.

12. With respect to Claim 19, the combined art teaches a records system as set forth in claim 1. Lavin et al. discloses where at least one of the central computer and the health care computer includes a program adapted to integrate the user and provider information to perform at least one of authorizing recommended prescriptions, prescribing treatments, prescribing therapies, prescribing interventions, ordering laboratory tests, ordering imaging and performing studies ('585; Col./line 13/60-14/36).

Claim 29 is rejected as the same reason with Claim 19.

13. With respect to Claim 22, the combined art teaches a method as set forth in claim 21, Lavin discloses wherein record modification is logged ('585; Col. 5, lines 35-47).



14. With respect to Claim 23, the combined art teaches a method as set forth in claim 21, Lavin discloses wherein copies of previous records are retained when a record is modified ('585; Col. 9, lines 58-65; Figs. 14-20).

15. With respect to Claim 26, the combined art teaches a method as set forth in claim 20, Lavin discloses further comprising permitting a payer approved by the particular patient to access the record of the particular patient to verify treatment ('585; Col. 7, lines 25-45).

16. With respect to Claim 27, the combined art teaches a method as set forth in claim 20. Lavin et al. discloses further comprising analyzing the record of at least one of said plurality of patients to determine whether the record is extraordinary compared to the records of other patients within said plurality of patients ('585; Col. 11, lines 61-66).

17. With respect to Claim 30, the combined art teaches a method as set forth in claim 20, Lavin discloses further comprising authorizing payment of services upon satisfaction of established parameters for services ('585; Col. 7, lines 25-46).

18. With respect to Claim 31, the combined art teaches a method as set forth in claim 20, Soll disclose wherein permission to access information contained in the records is variable and depends on established parameters ('952; Col. 16, lines 12-21).

19. With respect to Claim 32, Lavin teaches a method for providing health care services to a plurality of patients comprising:

establishing rules for delivering and receiving health care services ('585; Col. 5, lines 36-47);

acquiring individual medical records from each patient of the plurality of patients ('585; Figs. 22-24; Col. 7, lines 15-25);

Lavin does not disclose explicitly requiring a particular patient of said plurality of patients to update the medical record by inputting current information, storing said records obtained from the particular patient in a database on a central computer.

However, this feature is known in the art as evidenced by Soll ('952). Soll discloses requiring a particular patient of said plurality of patients to update the medical record by inputting current information, storing said records obtained from the particular patient in a database on a central computer ('952; Fig. 3: capture medical history; Col. 7, lines 14-33; Col./line 12/55-13/19);.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate an enhanced medical treatment system which seeks input from the patient as taught by Soll ('952; Abstract) in the system of Lavin for managing patient medical records ('585; Abstract) and the combination would have yielded predictable results.

The combined art Lavin/Soll does not disclose requiring authorization from the particular patient to grant a health care professional access to at least a portion of the corresponding individual medical record of that particular patient prior to receiving

health care services from the health care professional, nor requiring the authorized health care professional to review the portion of the record in the database corresponding to the particular patient prior to the rendering of health care services.

However, Hacker discloses requiring authorization from the particular patient to grant a health care professional access to at least a portion of the corresponding individual medical record of that particular patient prior to receiving health care services from the health care professional, and requiring the authorized health care professional to review the portion of the record in the database corresponding to the particular patient prior to the rendering of health care services, and requiring the authorized health care professional to provide an accurate record of the health care services rendered ('075; Abstract).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the user authorization with multi-level access medical information as taught by Hacker('075; Abstract) in the system of Lavin/Sol for allowing healthcare professionals to access update patient-selected portion of patient's medical records and the combination would have yielded predictable results.

20. With respect to Claim 33, the combined art teaches a method as set forth in claim 32, Lavin discloses further comprising authorizing payment of services only when the health care professional follows the established rules for delivering health care services ('585; Col. 5, lines 36-47).

21. With respect to Claim 34, the combined art teaches a method as set forth in Claim 32. Lavin discloses further comprising authorizing payment of services only when the particular patient follows the established rules for delivering health care services ('585; Col. 7, lines 25-45).

22. With respect to Claim 35, Lavin teaches a method for delivering health care while controlling interaction between users, providers and payers through parameters and rules comprising:

determining health care service user eligibility using a computing machine having access to a pre-determined criterion for health care service user eligibility saved on a machine readable memory, determining health care service provider eligibility using a computing machine having access to a pre-determined criterion for health care service user eligibility saved on a machine readable memory ('585; Abstract).

Lavin does not disclose establishing rules for the administration of the health care service system, determining reasonable costs for health care products and services; determining health care services that will be paid by the administrator or a third party, dispersing payment to health care service providers, ensuring availability of health care services, eliminating unnecessary use and abuse of health care services.

Soll discloses

determining reasonable costs for health care products and services; determining health care services that will be paid by the administrator or a third party, dispersing payment to health care service providers ('952; Abstract; Col. 12, lines 39-55); ensuring availability of health care services ('952; Abstract);

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include in the system of Lavin for providing patient medical records ('585; Abstract) the enhanced medical treatment system as taught by Soll ('100; Abstract) and the combination would have yielded predictable results.

The combined art does not disclose establishing rules for the administration of the health care service system, eliminating unnecessary use and abuse of health care services, guiding development of future services; monitoring health care service users' compliance with established rules of the health care service system, monitoring health care service providers' compliance with established rules of the health care system, enforcing all rules of the health care service system.

However, Hacker discloses establishing rules for the administration of the health care service system, eliminating unnecessary use and abuse of health care services, guiding development of future services; monitoring health care service users' compliance with established rules of the health care service system, monitoring health care service providers' compliance with established rules of the health care system, enforcing all rules of the health care service system ('075; Col. 1/line 7/5—8/17).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the user authorization with multi-level

access medical information as taught by Hacker('075; Abstract) in the system of Lavin/Soll for allowing healthcare professionals to access update patient-selected portion of patient's medical records and the combination would have yielded predictable results.

Claim 37 is rejected as the same reason with Claim 35.

23. With respect to Claim 36, the combined art teaches a method as set forth in claim 35, Lavin discloses further comprising assessing reasonable fees to health care service users ('585; Col. 13, lines 14-17).

24. Claims 5-8, 12-18, 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavin et al. (US 5,772,585 hereinafter Lavin) in view of Soll et al. (US 7,593,952 hereinafter Soll.) and further in view of Hacker (US. 6,988,075), and Seder et al. (US. 6,694,042 hereinafter Seder)

25. With respect to Claim 5, the combined art Lavin/Soll/Hacker does not disclose, according to a records system as set forth in claim 1 wherein at least one of said individual medical records includes a watermark providing information about the record.

However, Seder discloses wherein at least one of said individual medical records includes a watermark providing information about the record ('042; Abstract)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include in the system of Lavin/Soll/Hacker for providing

patient medical records ('585; Abstract) with the permission of patient's input ('952; Abstract) and the system of Seder related to electronic watermark to authenticate the documents ('042; Abstract) in order to authenticate the document and the combination would have yielded predictable results..

26. With respect to Claim 6, the combined art Lavin/Soll/Hacker/Seder teaches a records system as set forth in claim 5. Seder discloses wherein said watermark comprises a bit encrypted two dimensional bar code including information selected from a group consisting of ownership information, information related to source, information related to origin, information related to subject matter, and information related to access rights of the associated record ('042; Col./line 2/ 53-3/26).

Claim 28 is rejected as the same reason with Claim 6.

27. With respect to Claim 7, the combined art Lavin et al/Soll/Hacker/Seder teaches a records system as set forth in claim 5 wherein said central computer includes a central program adapted to analyze watermarks of individual medical records containing information selected from a group consisting of record content, source, and specific data, and to index the record for re-distribution and display ('042; Col. /line 2/53-3/26).

28. With respect to Claim 8, the combined art Lavin/Soll/Hacker does not teach, according to a records system as set forth in claim 1, wherein at least one of said

individual medical records is stored in the database as an electronic document image in a lossless compression format. However, Seder discloses wherein at least one of said individual medical records is stored in the database as an electronic document image in a lossless compression format ('042; Col. 5, lines 21-30).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include in the system of Lavin/Soll/Hacker for providing patient medical records ('585; Abstract) with the permission of patient's input ('952; Abstract) and the system of Seder related to electronic watermark to authenticate the documents ('042; Abstract) and the combination would have yielded predictable results.

29. With respect to Claim 12, the combined art Lavin /Soll/Hacker does not teach, according to a records system as set forth in claim 1, wherein said medical records database includes a document image having an encrypted visual watermark thereon providing information about the document image.

However, Seder discloses wherein said medical records database includes a document image having an encrypted visual watermark thereon providing information about the document image ('042; col. 2, lines 52-60).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include in the system of Segal et al. /Lavin et al. for providing patient medical records ('991; Abstract) with the physician access of recordal examination ('585; Abstract) and the system of Seder related to watermarked electronic



image signature to authenticate the documents ('614; Abstract) and the combination would have yielded predictable results.

30. With respect to Claim 13, the combined art Lavin/Soll/Hacker/Seder teaches a records system as set forth in claim 12., Seder discloses wherein the information provided about the document image includes information selected from a group consisting of document ownership, origin, source, subject matter, and management of access rights ('042; Col./line 2/64-3/3).

31. With respect to Claim 14, the combined art Lavin/Soll/Hacker/Seder teaches a records system as set forth in claim 12., Seder discloses wherein the document image includes a bar code having at least bits of encrypted data arranged in two dimensions ('042; Col. 7, lines 24-28).

32.

33. With respect to Claim 15, the combined art Lavin/Soll/Hacker/Seder teaches a records system as set forth in claim 12, Seder discloses further comprising a scanner for creating the document image from a source document ('042; Col. 5, lines 21-38).

34. With respect to Claim 16, the combined art Lavin/Soll/Hacker/Seder teaches a records system as set forth in claim 12, Seder discloses wherein the document image further comprises an encrypted digital watermark embedded in a blank space of the image and providing information about the image ('042; Col. /line 5/60-6/4).

35. With respect to Claim 17, the combined art Lavin/Soll/Hacker/Seder teaches a records system as set forth in claim 12, Seder discloses wherein the information provided about the document image is selected from a group consisting of information about document ownership, origin, source, subject matter, and information about access rights ('042; Col./line 2/64-3/3).

36. With respect to Claim 18, the combined art Lavin/Soll/Hacker/Seder teaches a records system as set forth in claim 12. Seder discloses wherein the document image is stored in a lossless compression format ('042; Col. 5, lines 21-30).

### ***Response to Arguments***

37. Applicant's arguments filed 02/09/2011 have been fully considered but they are not persuasive.

38. In the Remark filed 02/09/2011, the Applicant argued that the combined art does not disclose authorizing a health care professional to access at least a portion of the individual medical records of the respective patient as in claims 1-4,5-11, 12-19, or neither obtaining authorization from a particular patient to grant a health care professional access to at least a portion of the corresponding individual medical records of that patient as in claims 227, 29-31, nor requiring authorization from the particular patient to grant a health care professional access to at least a portion of the

corresponding individual medical records of that particular patient prior to receiving healthcare services from the healthcare professional as in claims 32-34.

39. In response to the Applicant's argument, the Examiner respectfully disagrees. In, fact, Hacker discloses means can be used for patient identification and access. Particularly, sensitive patient information can be passphrase protected so that the medical provider must get permission from patient to gain access to it ('075; Col. 7, lines 60-66).

Therefore given the broadest reasonable interpretation to one of ordinary skill in the art, it is submitted that the appropriate means for input of the input for patient identification which authorizes the healthcare professional to gain access from the patient as taught by Hacker ('075; Col. 7, lines 60-66) is in a form of authorizing a health care professional obtaining the authorization from the patient to access at least a portion of the individual medical records of the respective patient as in claims as described in the Applicant's invention.

Therefore, the Examiner maintains the rejection to Applicant's claims.

### ***Conclusion***

40. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HIEP NGUYEN whose telephone number is (571)270-5211. The examiner can normally be reached on Monday through Friday between 8:00AM and 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on 5712726787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HIEP NGUYEN/  
Examiner, Art Unit 3686